



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

BOOK REVIEWS AND NOTICES

Brief and Argument for Appellants, in the Case on the Illinois Ten-Hour Law for Women. By LOUIS D. BRANDEIS, assisted by JOSEPHINE GOLDMARK. In the Supreme Court of the State of Illinois, December Term, 1909. Large 8vo, pp. 610.

In 1906 the Supreme Court of Oregon sustained a ten-hour law for women. The defendant, who was convicted for violation of the law, carried it before the Supreme Court of the United States, where the law was again and finally affirmed. The State of Oregon, in the contest before the federal supreme court, retained Mr. Louis D. Brandeis, of Boston, as counsel. Mr. Brandeis filed a brief which was remarkable for the emphasis laid upon the legislation enacted in other states and countries, upon factory reports and other official documents of similar character, and upon statements of scientific authorities—material which is not commonly met with in legal briefs. Mr. Justice Brewer, in his opinion, took notice of this somewhat extraordinary character of the argument presented, and apparently did not feel quite sure whether the long array of non-judicial authorities and precedents constituted authority in the technical sense. "It may not be amiss," he said, "before examining the constitutional question to notice the course of legislation as well as expressions of opinion from other than judicial sources. . . . The legislation and opinions referred to may not be, technically speaking, authorities, and in them is little or no discussion of the constitutional question presented to us for determination, yet they are significant of a widespread belief that woman's physical structure and the function she performs in consequence thereof, justify special legislation restricting or qualifying the conditions under which she should be permitted to toil . . . a widespread and long continued belief . . . is worthy of consideration."

When, a few months ago, a ten-hour law for women, enacted in Illinois in 1909, was declared unconstitutional by a lower court and the case was taken on appeal to the Supreme Court of Illinois, Mr. Brandeis was again asked to serve as counsel in support of the law. The result is the present work—another brief of the same general character as that in the Oregon case, but greatly enlarged. The material for it was sifted and collected by Miss Josephine Goldmark, of New York. It is an apparently exhaustive collection of statutes, official documents, and expressions of scientific opinion bearing upon the effect on women of prolonged industrial work. It presents every phase of the subject, economic, social, pathological, hygienic, and eugenic, and will be an invaluable source of information to the student of labor conditions. The legal propositions which it states are brief and concise, and the legal authorities which it cites are very few.

The peculiar character of these briefs has been widely commented upon and makes them worthy of comment quite apart from the bearing they may have

upon any given case. Their significance lies in the fact that they inaugurate a new departure in the treatment of constitutional questions. When we speak of certain rights as constitutional, we imply that they are not under the absolute control of the legislature. They should therefore not yield to legislative restraint, unless the welfare of the community demands it. Whether there is such a demand or not, is a question of fact. Judicial control must therefore mean that the courts can go into the question of fact, and it is the full realization of this logical consequence of the principle of judicial control which constitutes the striking feature of the Brandeis briefs. They recognize the difficulty of the task imposed upon the courts, and seek to place them in a position where they can exercise their control intelligently and upon a basis of full information. They go upon the theory that where facts are not notorious those who propose to interfere with private contracts and arrangements must be prepared to show to the courts that there was a body of enlightened scientific opinions which supported the legislative judgment. Along this path lie safety and justice to the different interests affected by industrial legislation. It would undoubtedly be better if all this material were presented to the legislature before it acted. For the present, however, there seems a better chance for exhaustive, scientific, and impartial consideration in the judicial contest. If it is understood that legislation will have to stand a searching test as to its justification in facts and conditions, much of the present uncertainty regarding the validity of legislation will disappear.

From this point of view the most extreme advocates of the doctrine of freedom of contract must join with the friends of progressive labor legislation in welcoming the line of argument taken in Mr. Brandeis' brief.

Selections from the Economic History of the United States, 1765-1860. By GUY STEVENS CALLENDER. Boston: Ginn and Co., 1909. 8vo, pp. xviii+819. \$2.75.

Teachers of the economic history of the United States are placed under deep obligations to Professor Callender for this valuable compilation of readings.

A course of lectures on the subject, even if given in connection with a textbook, can do little more than guide and inspire the student. In the field of descriptive economics concrete problems should be placed before the student by the abundant use of raw material. This concrete material requires careful analysis and leads to close, consecutive thought. Only the largest libraries can furnish this original material; even in these libraries the materials are widely scattered throughout magazines, books, diaries, public documents, etc.; and when the necessary materials are found there is a lack of sufficient copies. This demand for supplementary material has led to the compilation and publication of numerous "Readings." The one under review is equal to the best already on the market.

The editor states that the book is intended to be used as reading to supplement a course of lectures or in connection with a brief textbook serving the same purpose. The book will be found serviceable, also, in general courses in American history that emphasize the economic and social as well as the political and military side of our national development. The editor disclaims any attempt